

## **MINUTES**

### **MONTANA SENATE 56th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON TAXATION**

**Call to Order:** By **CHAIRMAN GERRY DEVLIN**, on March 17, 1999 at 8:05 A.M., in Room 413/415 Capitol.

#### **ROLL CALL**

**Members Present:**

Sen. Gerry Devlin, Chairman (R)  
Sen. Bob DePratu, Vice Chairman (R)  
Sen. John C. Bohlinger (R)  
Sen. Dorothy Eck (D)  
Sen. E. P. "Pete" Ekegren (R)  
Sen. Jon Ellingson (D)  
Sen. Alvin Ellis Jr. (R)  
Sen. Bill Glaser (R)  
Sen. Barry "Spook" Stang (D)

**Members Excused:** None

**Members Absent:** None

**Staff Present:** Sandy Barnes, Committee Secretary  
Lee Heiman, Legislative Branch

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: None  
Executive Action: HJ 19; SB 308; SB 512; SB 522

#### **DISCUSSION ON RENTAL CAR COMMITTEE BILL**

**SEN. ELLIS** said that he had been asked to carry the rental car committee bill yesterday, and he has not been able to get any signatures from committee members on that bill. He said that he was not going to carry it any further if there was no support for it in committee. He said his deadline for turning it in was late this evening or early tomorrow morning. **CHAIRMAN DEVLIN** said that if any of the committee members were interested in

supporting this particular bill, they should see that it is signed and moved on.

**EXECUTIVE ACTION ON HJ 19**

**CHAIRMAN DEVLIN** reminded the committee that this is the resolution on PILT funding, which was heard March 4, 1999.

**Motion/Vote:** **SEN. ELLIS MOVED THAT HJ 19 DO PASS. Motion carried 9-0.**

**SEN. ELLIS** said he would carry it on the floor.

**EXECUTIVE ACTION ON SB 308**

**Motion:** **SEN. BOHLINGER MOVED THAT SB 308 DO PASS.**

**Discussion:**

**SEN. BOHLINGER** reminded the committee that last session the legislature passed the Family Education Savings Act. He said federal legislation had passed in the last year necessitating some updating in Montana's law. This bill merely brings Montana into compliance with some of the federal laws. He said the most significant change is on page 11, which says that contributors must leave these deposits in the account for three years to qualify for favorable treatment.

**SEN. BOHLINGER** also said that some other states provide investors the opportunity to put these monies into equities. He said he had visited with **Mr. Heiman** about that and **Mr. Heiman** had said that our present law will allow for that, so it is just up to the Commissioner of Higher Education to see that that is done. He said this is a good and necessary piece of legislation and recommend moving it forward.

**SEN. EKEGREN** asked if it was truly possible for someone to put money in on one day and draw it out the next day and have no penalty, and **SEN. BOHLINGER** said that under present law that was possible. He did say that there are penalties if the money is taken out of the fund for some other purpose than secondary education. **SEN. ECK** pointed out in the bill that the penalty is an amount equal to 10% of the portion of the proposed withdrawal. **SEN. ELLIS** explained that this was a little loophole in the original legislation that was overlooked, and **SEN. BOHLINGER** said that this legislation closes the door on that.

**SEN. BOHLINGER** pointed out that the Fiscal Note reflects no fiscal impact.

**SEN. ECK** said that the bill as amended assures that there is not going to be a financial impact, but if not passed, there could be. She asked, however, if there was any way of specifying how the Board of Regents invests the monies that are contributed to this Education Savings Act, and **SEN. BOHLINGER** said that the College Savings Bank was the financial institution the state of Montana entered into an agreement with. The College Savings Bank at this time is only placing money in savings accounts which yield something like 2% to 3%. **SEN. ECK** asked if the committee could give the Board of Regents any directives on how to invest these funds, and **SEN. BOHLINGER** said he would like the committee to give some direction to the Board of Regents on how these monies should be invested.

**SEN. ELLIS** asked how this could be done, and **Mr. Heiman** explained that the federal law is really specific in that the program may not be directly or indirectly controlled by the beneficiaries. He said what this amounts to is that when a person contributes to this fund, everyone is treated the same, with no choice of how it is invested. He said the Board of Regents has a three-year contract with the College Savings Bank, and they are hoping they can get a better investment when that contract expires.

**Vote:** Motion carried 9-0.

#### **EXECUTIVE ACTION ON SB 512**

**CHAIRMAN DEVLIN** said this a home rule measure. **SEN. ECK** said it is a concept rather than a bill, and **SEN. DEPRATU** said that **SEN. HALLIGAN** had requested a couple weeks to work on the bill. That was two weeks ago.

**Motion/Vote:** **SEN. ELLIS MOVED THAT SB 512 BE TABLED.** Motion carried 9-0.

#### **EXECUTIVE ACTION ON SB 522**

**Motion:** **SEN. GLASER MOVED THAT SB 522 DO PASS.**

#### **Discussion:**

**SEN. ELLIS** said this specifies that when a conversion from a regular IRA to a Roth IRA takes place, the state taxes can be paid over four years, as is allowed under federal law. He asked if this is sunsetted, and **Mr. Heiman** said this is as it is under federal law. Montana does not have to sunset it because it is covered by that federal law.

**Vote:** Motion carried 9-0.

**EXECUTIVE ACTION ON SB 370**

**SEN. STANG** said this was the local option tax that came out of the interim committee. **CHAIRMAN DEVLIN** asked if he remembered what the vote was on that committee, and **SEN. STANG** said he thought it was 5-7.

**Motion:** **SEN. STANG MOVED THAT SB 370 DO PASS.**

**Discussion:**

**SEN. STANG** said that it was also a recommendation from the previous property tax committee that local governments be given a means to do this. He said this basically expands the local option tax to all communities in the state, but gives the people an opportunity to vote on this tax. He said it could be piggybacked with the sales tax, should that pass, and it might be a source of funding for **SB 407** for planning or infrastructure, as long as they could get the voter approval to do it.

**CHAIRMAN DEVLIN** asked how narrow this was as to what could be taxed, and **SEN. STANG** said it would be the same as spelled out for the resort tax. He said those things also have to be spelled out in the resolution that goes before the voters. **CHAIRMAN DEVLIN** asked if there was a provision for a certain voter turnout, and **SEN. STANG** said there was not, only a "majority of the electorate voting on the question."

**SEN. BOHLINGER** referred to page 3, line 3, and asked how luxuries are defined. **SEN. STANG** said the definition is on page 1, line 19. **SEN. BOHLINGER** asked if this included wearing apparel, and **SEN. STANG** said that it does, but that the petition that goes to the voters has to specify what will be covered.

**SEN. ELLIS** said he was not in favor of local option because of these specific kinds of questions and what is covered and what is not. He said he is in full support of wide-scale tax reform, but he does not feel this is the way to get there, and he would not support **SB 370**.

**SEN. STANG** said this bill would actually solve the problems that Whitefish and Kalispell have experienced because if the county decided to do a local option tax, they would be on equal footing. Also, he said local governments can weigh all those issues before they bring it to the people for a vote. He reiterated that it cannot be imposed without a vote of the people.

**CHAIRMAN DEVLIN** asked what percentage is paid by local residents, and **SEN. STANG** estimated 25%.

**SEN. EKEGREN** asked if this bill provided for property tax relief, and **SEN. STANG** said that it specifies that 5% has to go to property tax relief.

**SEN. EKEGREN** said he had a concern for the local merchants who would have to pay this tax, and **SEN. STANG** explained that the tax is not on the merchants, it is on their customers. Also, he said an unincorporated town can have their county commissioners approve how the money is spent, or they can establish a resort district and elect people to decide how the money is spent.

**SEN. ELLIS** said it was the merchants who opposed it most strongly in Red Lodge from the beginning, and certainly after it passed, but his main concern is with metropolitan trading hubs in the state becoming huge tax collectors for people over a broad area that have no voice in whether this tax passes or not.

**SEN. ECK** said that perhaps narrowing it so that it didn't cover luxury clothing and lot of questionable items might improve it and make it easier to get it passed. She said she is also concerned about people in the surrounding areas who pay the tax, but that these people use services in the community without contributing taxes, and this helps even that out.

**SEN. STANG** said that the luxuries definition is pretty loose, and he would not have a problem with narrowing that, as long as care is taken not to exclude the tourist items. He said he has a problem when clothing is taxed, and it always is under a sales tax. He said he would be willing to work on those issues.

**CHAIRMAN DEVLIN** said he would like to see a voter turnout requirement.

**SEN. ELLINGSON** said that the fact that merchants in an area have the choice of whether or not to impose this local option tax gives them some control over the situation. Also, in regard to the definition of luxuries on page 1, he suggested that be narrowed down. He said if that were done, it gets to the point of the bill and what it is intended to do.

**SEN. BOHLINGER** said it is not just the retail community that will influence the outcome of the vote, it is the general public that votes on it. Also, he said he would hate to see a law put in place that puts any of the vendors of apparel at a competitive disadvantage. He asked if the vendors in Red Lodge had had a decrease in their business because of the competitive

disadvantage perceived from the resort tax, and **SEN. ELLIS** said he did not know, but that the merchants are claiming they have had.

**SEN. DEPRATU** said that he has experienced in Whitefish that perception sometimes overrides reality and it can difficult to overcome that negative perception. He said he does feel that the resort tax has negatively impacted the main street small businesses.

**SEN. BOHLINGER** said he could support **SB 370** if the definition of luxuries was refined.

**SEN. STANG** said he would withdraw his motion and take some time to work on the issues that have been discussed with the committee today.

**ADJOURNMENT**

Adjournment: 9:05 A.M.

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SEN. GERRY DEVLIN, Chairman

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SANDY BARNES, Secretary

GD/SB

**EXHIBIT (tas60aad)**